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15 *Attorneys for Individual and Representative Plaintiffs*
16 *Cung Le, Nathan Quarry, Jon Fitch, Luis Javier*
17 *Vazquez, Brandon Vera, and Kyle Kingsbury*

18 *(Additional counsel appear on signature page)*

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20 **IN THE UNITED STATES DISTRICT COURT**
21 **FOR THE DISTRICT OF NEVADA**

22 Cung Le, Nathan Quarry, Jon Fitch, Brandon
23 Vera, Luis Javier Vazquez, and Kyle Kingsbury,
24 on behalf of themselves and all others similarly
25 situated,

26 Plaintiffs,

27 v.

28 Zuffa, LLC, d/b/a Ultimate Fighting
Championship and UFC,

Defendant.

Case No.: 2:15-cv-01045-RFB-PAL

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30 **PLAINTIFFS' RESPONSE IN**
31 **OPPOSITION TO DEFENDANT'S**
32 **MOTION FOR LEAVE TO FILE NOTICE**
33 **OF SUPPLEMENTAL AUTHORITY**
34 **REGARDING ZUFFA'S MOTION TO**
35 **EXCLUDE THE TESTIMONY OF DR.**
36 **HAL SINGER**

1 Plaintiffs submit this Response in Opposition to Defendant Zuffa's Motion for Leave to File
 2 Notice of Supplemental Authority (ECF No. 568) ("Motion") and Notice of Supplement Authority
 3 (ECF No. 568-1) ("NSA"), regarding the Supreme Court's recent decision in *Ohio v. American Express*
 4 Co., No. 16-1454, 2018 WL 3096305 (U.S. Jun. 25, 2018). Zuffa argues that *American Express* is
 5 relevant to its Motion to Exclude the Testimony of Dr. Hal Singer (ECF No. 524) ("Daubert Motion"),
 6 because Plaintiffs opposed that motion, in part, on the ground that "defining a market was *not* necessary
 7 when direct evidence is available." NSA at 1 (emphasis original); *see also* Plaintiffs' Opposition to
 8 Defendant's Motion to Exclude the Testimony of Dr. Hal Singer ("Daubert Opp."), ECF No. 534 at 36-
 9 40 (Plaintiffs' arguments concerning direct proof of monopsony power). Zuffa's supplemental authority
 10 is irrelevant both because: (1) Dr. Singer in fact defined relevant markets (at length) as part of his
 11 detailed economic analyses. *See* Daubert Opp. at 41-42 (discussing and referencing Dr. Singer's market
 12 definitions); *id.* at 42-48 (rebutting Zuffa's arguments concerning market definition); and (2) whether
 13 Plaintiffs need to prove a relevant market to establish their Section 2 claim has no bearing on the
 14 economic reliability of Dr. Singer's methods or testimony.

15 Contrary to Zuffa's suggestion, Dr. Singer defines relevant markets and his opinions incorporate
 16 those market definitions. Dr. Singer defines two alternative Relevant Input Markets (each comprising
 17 MMA promoters with rosters of Fighters deemed to be of sufficient quality that a Zuffa Fighter could
 18 view such promoters as a reasonable substitute for Zuffa), a Relevant Input Submarket (comprising
 19 MMA promoters with Fighters ranked in the top-15 in their weight classes), and a Relevant Output
 20 Market (comprising Live MMA Events featuring Fighters in a Relevant Input Market or Submarket).
 21 *See, e.g.*, Daubert Opp. at 41-42 & 47 (discussing Dr. Singer's market definitions); *see also* *id.* at 42-48
 22 (rebutting Zuffa's arguments concerning Dr. Singer's market definition). Further, to the extent that the
 23 Supreme Court in *American Express* cast doubt on using direct proof *alone* (unaccompanied by market
 24 definition) to prove market power or anticompetitive effects in certain contexts, it most certainly did not
 25 critique an economist's use of direct proof as Dr. Singer did, *i.e.*, *in addition to and as part of* market
 26 definition analyses.

27 Moreover, the ruling in *American Express* has no bearing on whether the methodology Dr.
 28 Singer used to establish market power is reliable—the relevant inquiry underlying Zuffa's Daubert

1 Motion. His analysis of, *inter alia*, relevant markets, market power, and anticompetitive effects are
2 either reliable under the pertinent standards in the fields of economics and econometrics, or they are
3 not. Thus, Zuffa's supplemental *legal* authority is irrelevant to the pending motion.

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1 Dated: July 10, 2018

Respectfully Submitted,

2 By: /s/ Eric L. Cramer
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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this 10th day of July, 2018 a true and correct copy of
3 Plaintiffs' **PLAINTIFFS' RESPONSE IN OPPOSITION TO DEFENDANT'S MOTION FOR**
4 **LEAVE TO FILE NOTICE OF SUPPLEMENTAL AUTHORITY REGARDING ZUFFA'S**
5 **MOTION TO EXCLUDE THE TESTIMONY OF DR. HAL SINGER** was served via the Court's
6 CM/ECF system on all parties or persons requiring notice.

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6 /s/ *Eric L. Cramer*

8 Eric L. Cramer

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